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U.S. Department of Justice

United States Attorney
Southern District of New York

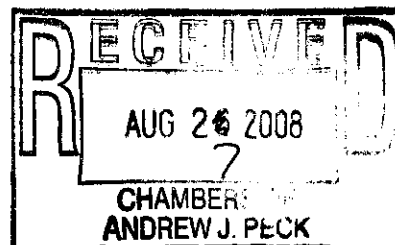
86 Chambers Street
New York, New York 10007

August 27, 2008

By Fax

Hon. Andrew J. Peck
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1370
New York, New York 10007

Re: Janice D. Garner v. Astrue
08 Civ. 6367 (CM)(AJP)



MEMO ENDORSED - 12

Dear Judge Peck:

This Office represents the Commissioner of Social Security, defendant in the above-captioned action. We write respectfully, with the consent of plaintiff's counsel, to request an extension of defendant's time to answer or move with respect to the complaint, and to amend the Court's briefing schedule.

A copy of plaintiff's complaint was received by this Office on July 16, 2008. Pursuant to the Federal Rules of Civil Procedure, an officer of the United States, served in his official capacity, has 60 days from service of the complaint to answer, which in this case would have been September 15, 2008. By Order dated July 22, 2008, the Court ordered that 1) defendant's answer to the complaint is due by August 29, 2008; 2) plaintiff shall move for judgment on the pleadings by September 19, 2008; 3) defendant's opposition papers shall be served and filed by October 10, 2008; and 4) plaintiff's reply papers shall be served by and filed by October 10, 2008.

Susan Baird, the Assistant United States Attorney assigned to this case, is unexpectedly out of the Office due to a death in her family, and will be unable to answer the complaint by August 29. Further, this Office has only recently received the administrative record in this case. In order to allow time to review the record and, if necessary, to discuss this matter with Social Security Administration personnel, we respectfully request that defendant's time to answer be extended by 45 days (i.e., October 14, 2008). Plaintiff's counsel has consented to this request.

In view of Ms. Baird's absence and the fact she must complete a review of the administrative record prior to filing an answer, we respectfully request that the Court's scheduling order be extended for forty-five days as follows: 1) defendant's answer to the

Hon. Andrew J. Peck

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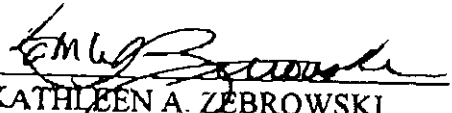
complaint is due by October 14, 2008; 2) plaintiff shall move for judgment on the pleadings by November 3, 2008; 3) defendant's opposition papers shall be served and filed by November 17, 2008; and 4) plaintiff's reply papers shall be served by and filed by November 24, 2008.

No previous extensions have been requested in this case. Thank you for your consideration of this request.

Respectfully,

MICHAEL J. GARCIA
United States Attorney

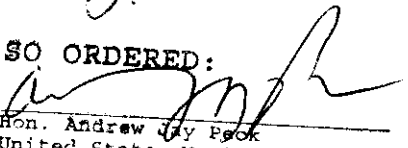
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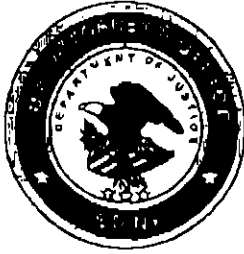
cc: Charles E. Binder, Esq. (by first-class mail)

MEMO ENDORSED 9/2/08
On consent, APPROVED.

SO ORDERED:


Hon. Andrew Jay Peck
United States Magistrate Judge

any further! All good
for the record
BY FAX



FACSIMILE COVER SHEET

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No. pages (including cover sheet): 3

Date sent: August 27, 2008

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To: Honorable Andrew J. Peck

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Remarks: _____

